Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Redesignation of the 17.7-19.7 GHz Frequency	)	
Band, Blanket Licensing of Satellite Earth	)	IB Docket No. 98-172
Stations in the 17.7-20.2 GHz and 27.5-30.0	)	RM-9005
GHz Frequency Bands, and the Allocation of	)	RM-9118
Additional Spectrum in the 17.3-17.8 GHz and	)	
24.75-25.25 GHz Frequency Bands for	)	
Broadcast Satellite-Service Use	)	

To: The Commission

REPLY COMMENTS OF THE INDEPENDENT CABLE & TELECOMMUNICATIONS ASSOCIATION

The Independent Cable & Telecommunications Association ("ICTA") urged the Commission in its opening comments to abandon the *Notice's* proposed redesignation plans for the 17.7-19.7 GHz band. Recognizing that it will not be technically or commercially possible for ubiquitously deployed geostationary orbit fixed satellite services ("GSO/FSS") and private cable systems to successfully share the same spectrum band, the majority of satellite commenting parties agree that the *Notice's* band redesignation proposals are unworkable. However, these parties propose alternative redesignation plans that are seriously flawed.

ICTA files these reply comments to urge the Commission to reject proposed redesignation plans for the 18 GHz band that fail to take into account the present and future spectrum needs of private cable operators. It also reiterates its support for an alternative proposal that would more effectively accommodate satellite's spectrum needs in the 18 GHz band without crippling private cable's opportunity to provide much-needed and growing competition to conventional cable monopolies.

I. COMMENTERS RECOGNIZE THAT BLANKET-LICENSED SATELLITE USERS AND PRIVATE CABLE OPERATORS CANNOT SHARE SPECTRUM.

The majority of satellite commenters appropriately recognize that it would not serve the interests of either blanket-licensed satellite operators or private cable users to require the two groups to share the same spectrum.[1] Because all four of the *Notice's* band redesignation plans propose blanket-licensed satellite use in private cable's existing spectrum band (18.142-18.580 GHz), they should be rejected.

Several commenters, including satellite parties, correctly emphasize that any type of sharing arrangement between blanket-licensed satellite users and private cable operators would thwart private cable expansion.[2] There simply is no viable method for private cable operators to coordinate with potentially tens of thousands of blanket-licensed GSO/FSS users deployed at unknown locations. In addition, private cable operators would interfere with GSO/FSS systems within a 45-mile zone of any private cable transmission site. Under these conditions, it would be virtually impossible for private cable operators to design a non-interfering system with any certainty of success or longevity. Thus, if required to coordinate

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[1] *See* Comments of the Spectrum & Orbit Utilization Section of the Satellite Communications Division of the Telecommunications Industry Association ("TIA-SOUS"), p. 3 ("Nor should the Commission consider any additional proposals for FS/FSS sharing in these bands as it would only impede the potential for each service to develop fully."); Comments of Lockheed Martin Corporation ("Lockheed Martin Comments"), p. i ("Lockheed Martin believes that it may not be technically or commercially possible for ubiquitously deployed FSS and terrestrial fixed service systems to successfully share the same spectrum."); Comments of Loral Space & Communications Ltd. ("Loral Comments"), p. 4 ("Sharing between ubiquitous Ka-band terminals and fixed services is infeasible.").

[2] *See* Comments of KaStar Satellite Communications Corp., et al., ("KaStar Comments"), p. 8 ("If CARS were redesignated as a secondary service, applicants and existing licensees that desired to add programming distribution paths or modify existing facilities could face great difficulty in so doing in light of the need to coordinate with primary FSS systems. In effect, CARS stations could be locked in to their current parameters and would be restricted in their ability to improve service to the public by upgrading their facilities.").

with or protect GSO/FSS users in any portion of the 18.142-18.580 GHz band, private cable operators would not be able to expand existing or deploy new operations.[3]

Several commenters also appreciate that any type of sharing arrangement between blanket-licensed satellite users and private cable operators would prove devastating for grandfathered private cable licensees. As these commenters demonstrate, even if they observed applicable interference standards, blanket-licensed satellite operators could potentially cause significant interference to incumbent grandfathered private cable licensees in any portion of private cable's existing spectrum band (18.142-18.580 GHz).[4]

Finally, most commenters recognize that any type of sharing between private cable operators and GSO/FSS users would preclude GSO/FSS users from ubiquitously deploying satellite earth stations.[5] Private cable licensees currently operate over 2,400 18 GHz links in urban areas throughout the United States. The number of incumbent private cable links that occupy the 18.142-18.580 GHz band leave little, if any, available spectrum for satellite operators to deploy blanket-licensed operations. It is simply wrong to conclude that ubiquitously deployed GSO/FSS satellites can operate in urban areas where private cable links exist.[6]

In short, the redesignation proposals outlined in the *Notice* for the 17.7-19.7 GHz band are unworkable. If the Commission adopts any of the four band plans, competition in the

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[3] *See e.g.*, Comments of RCN Telecom Services Inc., ("RCN Comments"), p. 5 ("Adoption of [the *Notice's*] proposal would put an end to expansion of fixed service video systems.").

[4] *See* ICTA Comments, pp. 14-15; Comments of Fixed Wireless Communications Coalition ("FWCC Comments"), pp. 10-12.

[5] *See e.g.,* Comments of Panamsat Corporation ("Panamsat Comments"), p. 4 ("Such shared use of spectrum would not permit the ubiquitous deployment of small earth stations.").

[6] *See* KaStar Comments, p. 6 ("The present operation of FS systems in urban areas would make it extremely difficult for FSS systems to coordinate with existing FS systems resulting in indefinite delays or, worse yet, the inability to utilize the spectrum in any meaningful way."); Comments of Pegasus Development Corporation ("Pegasus Comments"), p. 6 ("Sharing between FS and GSO FSS will not permit blanket licensing or service ubiquity for either service.").

video services market will be thwarted, satellite users will be unable to deploy their services, and thousands of fixed service users will be displaced.[7] Thus, as ICTA and other parties emphasize in their opening comments, the *Notice's* redesignation plan must be abandoned or substantially modified.[8]

II. THE BAND REDESIGNATION PLANS PROPOSED BY SATELLITE PARTIES ARE UNSOUND.

Rather than work toward a solution that would accommodate all present and future users in the 18 GHz band, satellite commenters propose one-sided fixes that would severely harm private cable systems and the public served by them. Because the alternative band redesignation plans proposed by satellite operators do not allocate sufficient spectrum for private cable operators, they should be rejected.

Satellite proposals can be divided into two groups. The first group claims that satellite operators need 1000 MHz of sole, primary spectrum in the 18 GHz band to successfully deploy ubiquitous small-antenna earth stations.[9] In general, these commenters urge the

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[7] *See* FWCC Comments, p. 3 (noting that the *Notice's* proposals would reduce the spectrum available to fixed service users by more than 50%); Comments of the State of California, pp. 1-2 (emphasizing that *Notice's* proposals would impair its public safety mobile communications networks); Comments of the Association of Public Safety Communications Officials-International, Inc., p 3 (noting that *Notice's* proposals would displace 18 GHz links used to provide law enforcement, fire, emergency medical and other vital public safety functions).

[8] *See* Comments of Hughes Electronics, Inc. ("Hughes Comments"), p. 13 ("While Hughes cannot, at this time, propose an ideal band plan that would accommodate all interested parties, it is clear that a new band plan for the 17.7-19.7 GHz band needs to be considered."); Comments of GE American Communications Inc., ("GE Americom Comments"), p. i ("The proposed redesignation of the 18 GHz bands requires substantial readjustment.").

If this were merely a rulemaking proposal with no present impact, the Commission could deliberate over it and try out various substantial modifications, but it should not indulge in that luxury so long as the proposal incorporates the *de facto* freeze component from which ICTA has sought emergency relief. *See* ICTA Emergency Request For Immediate Relief (filed November 5, 1998); Reply To Oppositions Filed Against ICTA's Emergency Request For Immediate Relief (filed December 21, 1998).

[9] *See* Hughes Comments, pp. 7-8; Panamsat Comments, p. 2; GE Americom Comments, pp. 6-7; Comments of TRW, Inc. ("TRW Comments"), pp. 5-6.

Commission to dedicate the 500 MHz between 18.3-18.8 GHz *and* the 500 MHz between 19.7-20.2 GHz for sole, primary GSO/FSS use.[10] The second group of satellite commenters, admitting that 750 MHz is sufficient for blanket-licensed GSO/FSS operations, demands at least 250 MHz of sole, primary spectrum within the 18.3-18.8 GHz band in addition to the 500 MHz of spectrum between 19.7-20.2 GHz.[11] The majority of commenters in this second group would be content with 250 MHz of sole, primary spectrum in either the 18.3-18.55 GHz or the 18.55-18.8 GHz band.[12]

Under either proposal advanced by satellite commenters, private cable operators would be unable to compete as full-scale providers of video programming. As ICTA demonstrated in its opening comments, private cable operators need access to at least 440 MHz of spectrum to deploy competitive cable services. If the Commission designated the entire 500 MHz of spectrum between 18.3-18.8 GHz for sole, primary blanket-licensed satellite use, private cable operators would retain only 160 MHz (18.14-18.3 GHz) of its current spectrum band. Similarly, if the Commission allocated the 250 MHz between 18.3-18.55 GHz for sole, primary satellite use, private cable would be left with 160 MHz (18.14-18.3 GHz) and 30 MHz (18.55-18.58 GHz) of its current band. Because other contiguous portions of the 18 GHz band are unworkable, either of these two band redesignation proposals would leave private cable

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[10] These commenters base their claim for 1000 MHz on the Commission's decision in the 28 GHz proceeding. However, when deciding to allocate 1000 MHz for GSO/FS services from 27.5-29.5 GHz, the Commission confronted a vacant spectrum band. The landscape of the 18 GHz band is vastly different, and, for the reasons addressed herein and by other fixed terrestrial service operators, the band simply cannot support a 1000 MHz allocation for GSO/FSS users.

[11] *See* KaStar Comments, p. 7; Comments of Teledesic LLC ("Teledesic Comments"), pp. 7-8; Lockheed Martin Comments, p. 5; Pegasus Comments, p. 4.

[12] *See, e.g.*, Lockheed Martin Comments, p. 5 (noting as an alternative that 250 MHz between 18.3-18.55 or 18.55-18.8 GHz would suffice, with some limitations).

operators with a spectrum block that is wholly inadequate to support competitive cable services to subscribers.[13]

Satellite proposals to switch or "flip-flop" the 18.3-18.55 and 18.55-18.8 GHz bands raise similar problems. Under these proposals, blanket-licensed earth stations would occupy the 18.55-18.8 GHz band on a primary basis, and gateway earth stations would share the 18.3-18.55 GHz band on a co-primary basis with private cable operators.[14] Although this proposal would eliminate the problems associated with blanket-licensed satellite use in the heart of private cable's spectrum band (18.3-18.55 GHz), in light of current pfd and interference protection limits, private cable operators would have significant difficulty sharing with gateway earth stations in this band.[15] The flip-flop also is problematic because, as proposed by satellite commenters, private cable would lose 30 MHz (18.55-18.580 GHz) of their existing spectrum band. Contrary to satellite parties' assumptions, it is not feasible to recover this 30 MHz loss in the spectrum below 18.14 GHz. The 17.7-18.14 GHz band is heavily congested, not video-channelized, and lacks vendor support. Also, private cable operators could use this band only where they did not interfere with other fixed terrestrial use in the band.[16] Since private cable's

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13 ICTA Comments, p. 8.

14 Teledesic Comments, p. 7 ("Both GSO FSS operators and FS operators would appear to benefit if the 250 MHz of GSO FSS 'gateway' spectrum ran from 18.3-18.55 GHz, rather than from 18.55-18.8 GHz."); Pegasus Comments, p. 4 ("At 18.3-18.55, where the Commission proposes GSO FSS as the primary service, Pegasus would eliminate the primary allocation to GSO FSS, and create a new primary allocation for FS at 18.3-18.55 GHz.").

15 *See* ICTA Comments, p. 9, Hardin & Associates Engineering Analysis, pp. 1-2. Several commenters challenge the *Notice's* assumption that all GSO/FSS systems in the 18.55-18.80 GHz band will be gateways. *See e.g.,* Panamsat Comments, p. 4. These commenters claim that most satellite operators intend to ubiquitously deploy small earth stations. As discussed above, it would be impossible for private cable operators to share spectrum with blanket-licensed satellite systems.

16 ICTA Comments, pp. 8-9; RCN Comments, p. 10.

market is in heavily populated areas where fixed terrestrial use also tends to be intensive, this proposal is only a solution in theory, not in reality.

Recognizing that their proposals would not provide private cable operators with sufficient spectrum to deploy the competitive cable services that they today deliver, satellite commenters urge the Commission to relocate private cable operators to a different band altogether.[17] Yet these parties then fail to propose a feasible alternative home for dislocated private cable systems.[18] Accordingly, these alternative band redesignation plans should be rejected.[19]

III. A REDESIGNATION PLAN IS AVAILABLE THAT WOULD RETAIN PRIVATE CABLE'S PRIMARY STATUS IN THE 18.142-18.580 GHZ BAND AND ACCOMMODATE SATELLITE'S REASONABLE NEEDS

Because private cable operators cannot share with either fixed terrestrial licensees or satellite operators, and because, as a practical matter, other 18 GHz spectrum cannot accommodate private cable's needs, ICTA urges the Commission to adopt a redesignation plan that retains private cable's primary status in the 18.142-18.580 GHz band. Enabling private cable licensees to preserve their present and separate frequency allocation will serve the interests of all

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[17] *See* Loral Comments, pp. 6-7 (urging Commission to relocate existing private cable operators); TIA-SOUS Comments, p. 8 (same); Panamsat Comments, p. 6 (same).

[18] At this time, and for the foreseeable future, there is simply no substitute for the 18 GHz spectrum band because of its propagation characteristics and compatibility with existing private cable equipment. Should the Commission decide that relocation of private cable operators is the appropriate solution, satellite users, consistent with Commission precedent concerning the *Emerging Technologies* and *PCS* proceedings, should be required to bear all costs associated with relocation, the new private cable facilities should be fully comparable with existing private cable facilities, all steps necessary for the effective reallocation should take place before private cable operators are evicted from or grandfathered in the 18 GHz band, and private cable operators should have the right to return should the new facilities not prove suitable.

[19] Teledesic has proposed various methods by which relocation costs should be calculated. *See* Teledesic Comments, pp. 15-18. If and when the decision is made to require relocation, the Commission should provide parties with an opportunity to comment on the specifics of a relocation proposal.

users in the 18 GHz band. But this does not have to be at the expense of accommodating the satellite interests.

The Fixed Point-to-Point Section, Wireless Communications Division of the Telecommunications Industry Association ("Fixed-Point-to-Point Section") proposes a reasonable alternative redesignation plan.[20] The Fixed Point-to-Point Section's modified plan provides 880 MHz for fixed service operators, 440 MHz for private cable licensees and 1120 MHz for proposed satellite systems.[21] The plan complies with the principle that sharing between private cable and other operators is impractical and destructive, and it designates significant spectrum allocations for satellite systems in the 18 GHz band. Because the Fixed Point-to-Point Section's proposal would permit future growth of private cable and fixed terrestrial operations, protect incumbent operations and enable the different types of satellite services to be successfully implemented in the 18 GHz band, ICTA urges the Commission to adopt it in this proceeding.

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[20] *See* Comments filed by the Fixed Point-to-Point Section, Wireless Communications Division of the Telecommunications Industry Association, ("Fixed Point-to-Point Comments").

[21] Fixed Point-to-Point Comments, pp. 3-4.

CONCLUSION

For the reasons discussed above, and in ICTA's initial comments, the Commission should abandon the *Notice's* redesignation proposals for the 18 GHz band and adopt the redesignation plan proposed by the Fixed Point-to-Point Section that retains private cable's primary status in the 18.142-18.580 GHz band.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

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